

Appl. No. : 10/614,650
Filed : July 7, 2003

REMARKS

Applicants respectfully contend that the application has been placed in condition for allowance.

Claim 10 is Currently in Condition for Allowance

Applicants have amended Claim 10 to clarify that the first and second portions of the elongate body are rigidly connected to one another so as to always move as a single elongate unit. This limitation, when considered in combination with all of the other limitations, is not taught or suggested in any of the cited references. Accordingly, Applicants respectfully contend that this claim is currently in condition for allowance.

Claim 6, which depends from Claim 10, has been amended to recite an embodiment in which the first and second portions are unitarily formed. Claims 2-4, 8 and 9 also depend from Claim 10, and recite additional patentable subject matter. Applicants respectfully contend that these claims are currently in condition for allowance.

Allowable Claims Rewritten into Independent Form

The Examiner objected to Claims 17-20, but indicated that these claims would be allowable if rewritten in independent form. Applicants have rewritten Claims 17 and 18 into independent form. As such, Claims 17-20 are currently in condition for allowance.

Claim 21 is Supported by the Application As Filed

The Examiner rejected Claims 21-24 under 35 U.S.C. § 112 as reciting subject matter that was not described in the specification. Correspondingly, the Examiner objected to Applicants' amendment that added these claims. Applicants have cancelled Claim 23, and Applicants respectfully traverse the Examiner's rejection with regard to Claims 21, 22 and 24, and contend there is clear support for the subject matter recited in these claims in the application as filed. Additionally, Claim 21 has been amended to correct a minor typographical error.

The Examiner specifically stated that the specification does not describe "first and second lumens (that) do not communicate with one another." (Office Action, page 3). However, Figure 2 of the drawings clearly shows an inner lumen 30 and an outer lumen 42 that are clearly defined by walls. No holes, apertures, or the like that would enable communication between the lumens 30, 42 are shown, and no such structure is described in the specification

(Paras. [0034]-[0035]). In contrast, a lumen 58 is defined through a second neck 54 of the device 20, and expressly communicates with the outer lumen 42 (see Figure 2 and Para. [0036]).

Figures 3-5 and the associated discussion also clearly disclose an embodiment in which the first and second lumens do NOT communicate with one another. In this embodiment, a vacuum is drawn through the inner lumen 30 (see Para. [0040]). If the inner and outer lumens 30, 42 communicated with each other, drawing a vacuum through either of the lumens would effectively create a vacuum in both lumens. However, as operation of the device continues as described in Para. [0041], vacuum is also desired to be drawn through the outer lumen 42, and is accomplished by connecting a second source of vacuum to the outer lumen 42 or by moving the source of vacuum that was originally connected to the inner lumen 30 to the outer lumen 42. This operation would not be necessary if the lumens 30, 42 communicated with one another. Thus, this embodiment clearly discloses lumens that do not communicate with one another.

Figure 4A and Para. [0044] demonstrate still further support. In this embodiment, irrigating fluid F is inserted into the outer lumen 42 and through the outer lumen distal opening 50 into the field 80 to clean the field. However, no such fluid F passes through the inner lumen distal opening 40. If the lumens 30, 42 were in communication, fluid F would exit both openings 40, 50.

Applicants contend that the application as filed provides clear support for the claim limitation that “the first and second lumens do not communicate with one another.” Accordingly, Applicants respectfully request the Examiner to withdraw the rejection of Claim 21, and Claims 22 and 24 which depend therefrom.

New Claims

Applicants have added new Claims 28-33 to more fully recite subject matter Applicants consider to be the invention. Claims 28 and 29 depend from independent Claim 26; Claims 30-32 depend from independent Claim 17; and Claim 33 depends from independent Claim 18. Each of the newly-added dependent claims recites additional patentable subject matter, and all of the new claims are believed to be in condition for allowance.

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Conclusion

Applicants respectfully submit that the rejections and objections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: 

Glen L Nuttall

Registration No. 46,188

Attorney of Record

Customer No. 20,995

(949) 760-0404

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